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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,645	07/03/2000	Time Certain LLC	32801-999999	3620
26694	7590	06/17/2004	EXAMINER	
VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			FIELDS, COURTNEY D	
			ART UNIT	PAPER NUMBER
			2137	6

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/609,645

Applicant(s)

CERTAIN LLC, TIME

Examiner

Courtney D. Fields

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4</u> . | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7,9,and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bisbee et al. (5,748,738). Referring to claims 1 and 9, Bisbee et al. discloses a system and method implementing digital signing and encryption for electronic transmission. The system and method comprising: computer means installed therein a trusted time source, means for saving the file at a moment in time, means for retrieving the trusted time source a date and a time, means for appending the date and the time retrieved from the file, and means for saving the file with a certificate in Column 5, lines 5-39, 56-59, 64-67, Column 6, lines 1-13.

As per claims 2 and 11, Bisbee et al. discloses the claimed limitation of means for signing the saved file with the date and time retrieved from the trusted time source appended thereto, means for hashing the signed file to produce a digest, means for signing the digest with a key to produce a certificate, and means for appending the certificate to the saved file in Column 10, lines 23-49.

As per claim 3, Bisbee et al. discloses the claimed limitation of means for verifying the authenticity of the file with the certificate appended thereto in Column 6, lines 31-42.

As per claim 4, Bisbee et al. discloses the claimed limitation wherein verification means comprises means for signing the saved file with the date and the time retrieved from the trusted time source appended thereto with an ID in Column 10, lines 51-64.

As per claim 5, Bisbee et al. discloses the claimed limitation wherein the ID is selected from the group consisting of an ID corresponding to a user, an ID corresponding to a system used by the user, and an ID corresponding to an enterprise within which the user uses the system in Figure 3 and Column 7, lines 62-67, Column 8, lines 1-5, 14-38.

As per claim 6, Bisbee et al. discloses the claimed limitation wherein the ID corresponding to a system used by the user is elected from the group consisting of a platform ID, a server node ID, and a network ID in Column 8, lines 39-54.

As per claim 7, Bisbee et al. discloses the claimed limitation wherein the user ID is selected from the group consisting of a plurality of characters identifying the user, first data representing an iris scan, second data representing a retina scan, third data representing a finger scan, fourth data representing a user's hand geometry, fifth data representing a user's voice, and sixth data representing a user's signature in Column 4, lines 61-67, Column 5, lines 1-4.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 8,10,12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bisbee et al. in view of Fischer (6,408,388). As per claims 1-7,9,and 11, Bisbee et al. discloses the invention as claimed above. However, Bisbee et al. does not explicitly disclose a real time clock and battery coupled to and powering the real time clock within the trusted time source. As per claim 8, Fischer discloses a system wherein the trusted time source comprises: a real time clock and a battery coupled to and powering the real time clock in Figure 1 and Column 3, lines 55-62, Column 4, lines 4-8.

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Bisbee et al.'s system and method for electronic transmission by combining Fischer's date and time notary device. This will ensure the validity of a digital signature with a trusted time stamp performed for each electronic transmission. (See Fischer, Column 2, lines 38-48)

As per claim 10, Fischer discloses the claimed limitation wherein the computing means further comprises: a system clock, operating system means for operating the computing means, an application running on the operating system means, and the step of retrieving the trusted time source comprising the step of providing an API between the trusted time source and the application in Column 3, lines 6-54.

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Bisbee et al.'s system and method for electronic transmission by combining Fischer's date and time notary device. This will ensure the validity of a digital signature with a trusted time stamp performed for each electronic transmission. (See Fischer, Column 2, lines 38-48)

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As per claim 12, Bisbee et al. as modified discloses the claimed limitation wherein the first plurality of instances comprise a first plurality of operating system calls which are unrelated to the application in Column 11, lines 56-65.

As per claim 13, Bisbee et al. as modified discloses the claimed limitation wherein the second plurality of operating system calls, each of which relates to the application and a plurality of application calls which are unrelated to the operating system means in Column 11, lines 25-38.

As per claim 14, Bisbee et al. as modified discloses the claimed limitation comprising the step of providing tamper-evident means for labeling the trusted time source in Column 3, lines 27-33.

As per claim 15-20, Bisbee et al. as modified discloses the claimed limitation wherein the moment in time corresponds to an access, creation, modification, receipt, saving, and transmission of the digital-imaging file in Column 1, lines 47-54, Column 6, lines 62-67, Column 9, lines 28-32, 45-51, Column 10, lines 40-61.

As per claim 21, Bisbee et al. as modified discloses the claimed limitation wherein the step of providing an API between the trusted time source and the application comprises the step of preventing changes to the system clock in Column 10, lines 19-27.


### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Blandford (U.S. Patent No. 5,189,700) discloses a device to provide authenticated time and time stamp and authenticate digital documents.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Courtney D. Fields whose telephone number is 703-305-8293. The examiner can normally be reached on Mon - Thu 7:00 - 5:00 pm; off every Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on 703-308-4789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
cdf

June 10, 2004

  
**MATTHEW SMITHERS**  
**PRIMARY EXAMINER**  
*Art Unit 2137*